
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

**199 EAST PEARL CONDOMINIUM OWNERS ASSOCIATION, a mutual benefit
Wyoming Nonprofit corporation,**

Plaintiff,

v.

ACUITY INSURANCE COMPANY, a mutual insurance company,

Defendant.

NOTICE OF REMOVAL

Defendant, ACUITY, A Mutual Insurance Company, through its attorneys L. Kathleen Chaney with Lambdin & Chaney, LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, submits the following Notice of Removal to the United States District Court for the District of Wyoming. In support thereof, ACUITY states and alleges as follows:

1. On September 1, 2021, Plaintiff filed its Complaint against the Defendant in the District Court, Teton County, State of Wyoming, captioned *199 East Pearl Condominium Owners Association, a mutual benefit Wyoming nonprofit corporation v. Acuity Insurance Company, a mutual insurance company*, Civil Action No. 18525 (See *Summons and Complaint* attached hereto as **Exhibit A**).

2. The Complaint was served on ACUITY on September 30, 2021. (See *Service of Process Transmittal* attached hereto as **Exhibit B**). Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal has been filed within 30 days after service on Defendant's registered agent.

3. Plaintiff is a nonprofit corporation formed in Wyoming with its principal place of business in Wyoming.

4. Defendant is a Wisconsin corporation with its principal place of business at 2800 South Taylor Drive, Sheboygan, Wisconsin 53081.

5. Diversity of citizenship is complete because Plaintiff is a citizen of the State of Wyoming and Defendant is a citizen of the State of Wisconsin.

6. Pursuant to 28 U.S.C. § 1332, this Court has jurisdiction where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest, and is between citizens of different states. The amount in controversy is ordinarily determined by the allegations of the complaint. *Laughlin v. Kmart Corp.*, 50 F.3d 871 (10th Cir. 1995).

7. Plaintiff alleges that Defendant breached its insurance contract and acted in bad faith in relation to a first party property damage claim involving the roof of the condominium and water damage claims. Plaintiff seeks a declaratory judgment, compensatory damages for breach of contract and bad faith breach of contract, in addition to statutory attorney fees, costs and interest pursuant to Wyo. Stat. Ann. § 26-15-124(c).

8. The *Complaint* does not allege nor demand a dollar amount. The jurisdictional threshold for Wyoming State District Court is \$50,000.00. The *Complaint* alleges “denial of a significant portion of Plaintiff’s water damage claims,” and that “Plaintiff has been forced to utilize and expend its own funds and resources in paying or making arrangements to pay for loss,” and seeks statutory attorney fees, costs and 10% interest – which connotes damages in excess of \$75,000. Plaintiff has made demands to Defendant in excess of \$300,000. The amount in controversy therefore exceeds \$75,000.

9. Contemporaneously with the filing of this Notice of Removal, Defendant shall provide notice of the removal to Plaintiff and the Clerk of the Court in the State Court Action as required by 28 U.S.C. § 1446(d).

10. Pursuant to local rule 81.1, within fourteen (14) days of entry of the Order on Removal, Defendant shall file with the Clerk of this Court, a copy of the entire state court record and proceedings, including the docket sheet.

WHEREFORE, all requirements of 28 U.S.C. §§ 1441 and 1446 have been met and Defendant ACUITY requests that the above-entitled action be removed from the Teton County District Court to the United States District Court of Wyoming.

DATED this 5th day of October, 2021.

Respectfully submitted,

LAMBDIN & CHANEY, LLP

By: /s/ L. Kathleen Chaney
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2021, a true and correct copy of the foregoing was filed with the Clerk of the Court using CM/ECF system and also served on the following:

<p>Codie D. Henderson Davis & Cannon, LLP 40 South Main Street P.O. Box 728 Sheridan, WY 82801 307-672-7491 codie@davisandcannon.com Attorneys for Plaintiff</p>	<p>Anne C. Sutton Clerk of the Court Teton County District Court 180 S. King Street P.O. Box 4460 Jackson, WY 83001 Civil Action No. 18525</p>
<p>Dennis Polk, <i>pro hac vice admission</i> Holley, Albertson & Polk 1667 Cole Blvd., #100 Lakewood, CO 80401 303-233-7838 dbp@haplaw.net Attorney for Plaintiff</p>	

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